THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE No.410 of 2007

Date:16.04.2014

Between:

..... Petitioner.

AND

The State of Andhra Pradesh,
rep by its Public Prosecutor,
High Court of A.P., Hyderabad.

.....Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

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ORDER:

This revision is preferred against judgment dated 13-03-2007 in Crl.A.No.202/2002 on the file of Principal District Judge, Vizianagarm whereunder judgment dated 09-12-2004 in C.C.No.525/2000 on the file of Judicial First Class Magistrate, Gajapathinagarm is confirmed by modifying the sentence.

2. Brief facts leading to filing of this revision are as follows:-

On the intervening night of 16/15/4-2000, at about 11:00

P.M., P.W.2, P.W.3, P.W.4, P.W.5-K.Adamma, A.Sanyasamma, P.W.15, P.W.6, P.W.7, P.W.8, P.?w.10. R.Laxmi and P.W.9 proceeded to Krishnapuram village of Pdnabhan Mandal in a Tractor and trailer bearing No.AP 35 2595/2596 driven by P.W.1 and when they reached bondapalli the revision petitioner being driver of lorry bearing No.AP.31 B 8743 while proceeding towards koapadul drove the lorry in a rash and negligent manner without blowing horn dashed against the trailer of the tractor due to which the trailer turtle as a result cleaner of the lorry died on the spot and the above revered persons sustained bleeding injuries. On the report of P.W.1, police registered crime No.16/2000 and investigation revealed that the revision petitioner is liable for punishment for the offence under Section……..304-A and 337 IPc. During trial, 17 witnesses are examined and 28 documents are marked on behalf of prosecution. No witness is examined and no document is marked on behalf of accused. On a over all consideration of oral and documentary evidence, trial Court found the revision petitioner guilty for the offences under Sections 304-A & 338 IPC and sentenced him to suffer one year imprisonment with a fine of Rs.3,000/- for the offence under section 304-A IPC and sentenced him to pay a fine of Rs.500/- for the offence under Section 338 IPC and sentenced him to pay a fine of Rs.500/- for the offence under Section 337 IPC. Aggrieved by the said conviction and sentence accused preferred appeal to the Court of Sessions and the Principal District &

Sessions Judge, Vizianagaram dismissed the appeal one year imprisonment for the offence under Sections 304-a IPC is reduced to nine months without touching the fine amount. Now aggrieved by the same, present revision is preferred. When the matter is listed, no one is appeared on behalf of revision petitioner. Therefore, the matter is posted under the caption for orders on 10-04-20014 and from that on the request of the Advocate for revision petitioner posted to this day. Today none appeared, therefore, the mater is posted on the basis of the material available on record.

Learned Public Prosecutor submitted that the evidence on prosecution witnesses would clinchingly show that accident was due to the rash and negligent manner of the revision petitioner and both the Courts have rightly convicted the revision petitioner and that there are no grounds to interfere with the concurrent findings of the Courts below.

3. Heard both sides.

5. Now the point that would arise for my consideration in this revision is whether the judgments of the Courts below are legal, proper and correct?

6. **Point**:- According to prosecution, on the intervening night on 16/15/04-2000 at about 11:00 P.M., the accused being driver of the lorry bearing No.AP 31 V 8743 dashed on a tractor and trailer driven by P.W.1 which was carrying fourteen persons as passengers. Out of seventeen

witnesses examined, P.W.s1 to 10 and 15 and three others sustained injuries where as cleaner of the lorry died on the spot. Here police registered the F.I.R on the statement of the F.I.R who is the driver of the tractor and also injured evidence of P.Ws.1 to 10 and 15 is consisting and corroborating with each other with regard to the way in which revision petitioner drove the lorry and caused accident. Their evidence is further supported and corroborated with the evidence of medical officer P.W.16 and the other official witnesses on all material aspects. Though P.Ws.1 to 10 and 15 were cross-examined on behalf of revision petitioner nothing could elicited from them to discredit their testimony. Now doubt, P.W.4, 5, 8, 9 & 10 have not supported prosecution case but the fact remains that they sustained injuries in the accident and that they were along with the other injured persons in the tractor. Considering this evidence, both trial Court and appellate Court have convicted the revision petitioner and I do not find any wrong appreciation of evidence either by the trial Court or by the appellate Court. Therefore, no incorrect findings in the judgments of the trial Court and appellate Court. The evidence of P.Ws.1 to 3 is clinching and convincing with regard to rash and negligent act of the revision petitioner and also identity of the accused. On a scrutiny of the material on record, I am of the view that both trial Court and appellate Court have rightly convicted the accused and that there are no grounds to interfere with their sentence.

7. Now coming to sentence, trial Court imposed one yeaer imprisonment for the offence under Sections 304-A IPC and imposed fine for the other offence of Sections 338 337 IPc. Appellate Court reduce the sentence from one year imprisonment to nine months and on a scrutiny of the material, considering the facts and circumstances of the case that the appellate Court have already taken a lenient view and that there are no grounds to interference with the sentence.

12. For these reasons, revision is dismissed confining the conviction and sentence.

13. Trial Court shall take steps for apprehension of accused for undergoing unexpired portion of sentence.

12. As a sequel, miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:16.04.2014

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